

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 4423 OF 2004
IN
CRIMINAL APPLICATION NO. 3746 OF 2004

Surendrakumar Phoolchand Jain

and another ... Applicants

versus

The State of Maharashtra ... Respondent

...

Mr. Chaurasia, for Mr. A.M. Saraogi, for the
Applicants.

Mr. K.V. Saste, A.P.P., for the State.

...

CORAM : A.M.KHANWILKAR, J.

19th October 2004

P.C.:

. Heard Counsel for the parties. The Applicants submit that since they are residents of Madhya Pradesh, it is not possible for them to provide two local sureties. Modification of condition (a) is sought on this contention. Besides, it is pointed out that the Applicants are not in a position to arrange for personal

bond in the sum of Rs. 1 lakh each. Learned Counsel has placed reliance on the decision of the Apex Court reported in A.I.R. 1978 S.C. 1594 in the case of Moti Ram v. State of M.P. to support his contention. After considering the submissions, it needs to be observed that ordinarily, since the Applicants were not permanent residents of Mumbai and the investigating agency through the A.P.P. submitted that if the Applicants are released on bail, it will not be possible to secure their presence, I was inclined to reject the bail application, but for the strict condition imposed in my order dated 15th September 2004. When that order was passed, Counsel for the Applicants did not raise any objection. Now, it is contended, relying on the decision of the Supreme Court, that the condition be modified being harsh. As mentioned earlier, ordinarily, I was not inclined to release the Applicants on bail having regard to the seriousness of the offence, but for the strict conditions imposed. The strict conditions have been imposed to ensure the presence of the Applicants as it is common ground that they are not permanent residents of Mumbai. It has been noticed in the recent past that several persons

similarly situated, who are not residents of the place where the offence is registered and who have not offered local sureties, have absconded while on bail and it has become difficult to secure their presence. There is already suo motu proceedings pending in this Court in this behalf wherein it has been disclosed that throughout the State of Maharashtra, there are about 14,000 such absconding persons. It is in the light of these developments, which have been noticed recently, it has become necessary to impose strict conditions. It is in the above backdrop, condition No. (a) was imposed in the present case. The only indulgence that can be shown having regard to the peculiar facts and circumstances of the present case is to permit the Applicants to furnish one or two solvent sureties in the amount of Rs. 1 lakh, besides the requirement of executing personal bond. The sureties need not be local sureties, but their genuineness will have to be ascertained by the Magistrate before accepting those sureties. Condition No. (a) is modified only to the above extent. Application disposed of on the above terms. Rest of the conditions in the order dated 15th September 2004 will remain as it is.

. Parties to act on the authenticated copy
of this order.